

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:	)	Chapter 7
	)	Case No. 19-10236
Johnson Publishing Company, LLC,)	
	)	Hon. Jack B. Schmetterer
Debtor.)	
	)	Date: August 8, 2019
	)	Time: 10:30 a.m.

**NOTICE OF TRUSTEE'S MOTION FOR ORDER AUTHORIZING PAYMENT OF
CONTINGENCY FEE AND EXPENSE REIMBURSEMENT TO HILCO IP SERVICES,
LLC d/b/a HILCO STREAMBANK**

PLEASE TAKE NOTICE that on **August 8, 2019, at 10:30 A.M.**, or as soon thereafter as counsel may be heard, we shall appear before the Honorable Jack B. Schmetterer, or any judge sitting in his stead, in Courtroom 682, in the United States Bankruptcy Court for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois, and present the **Trustee's Motion for Order Authorizing Payment of Contingency Fee and Expense Reimbursement to Hilco IP Services, LLC d/b/a Hilco Streambank**, at which time and place you may appear as you see fit.

Dated: August 5, 2019

**Miriam R. Stein, not individually, but solely
in her capacity as the chapter 7 trustee for the
bankruptcy estate of Johnson Publishing
Company, LLC**

By: /s/ N. Neville Reid
Fox, Swibel, Levin & Carroll, LLP,
General Bankruptcy Counsel to the Trustee

N. Neville Reid (ARDC #6195837)
Ryan T. Schultz (ARDC #6288585)
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CERTIFICATE OF SERVICE

I, N. Neville Reid, certify that on August 5, 2019, I caused a copy of the foregoing **Trustee's Motion for Order Authorizing Payment of Contingency Fee and Expense Reimbursement to Hilco IP Services, LLC d/b/a Hilco Streambank**, to be filed electronically through the Court's CM/ECF filing system and to be served upon the attached Service List by the Court's ECF filing system, and as otherwise indicated.

/s/ N. Neville Reid

N. Neville Reid

SERVICE LIST

Party to receive notice electronically via CM/ECF:

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Party to receive notice via Overnight Mail:

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 Chicago, IL 60604
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Other Government Creditors (Facsimile or Overnight Mail as Indicated)

Illinois Department of Revenue Bankruptcy Unit P.O. Box 19035 Springfield, IL 62794-9035 <i>Facsimile: (217)785-2635</i>	Louisiana Department of Revenue P.O. Box 201 Baton Rouge, LA 70821-0201
Louisiana Workforce Commission UI Tax Operations P.O. Box 94050 Baton Rouge, LA 70804-9050	New York State Department of Taxation and Finance Bankruptcy Unit P.O. Box 5300 Albany, NY 12205-0300
NYC Department of Finance 66 John Street, Room 104 New York, NY 10038	Pennsylvania Department of Revenue Department 280946 Attn: Bankruptcy Division Harrisburg, PA 17128-0946
State of Alabama Legal Division P.O. Box 320001 Montgomery, AL 36132-0001	State of California Bankruptcy Section: MS: A-340 P.O. Box 2952 Sacramento, CA 95812-2952
State of Maryland Attn: Collections/Compliance 110 Carroll Street Annapolis, MD 21411	State of New Jersey Division of Employ Accounts: Legal Processes P.O. Box 379 Trenton, NJ 08625
State of Texas LBJ Building Attn: Bankruptcy Section 111 E. 17th, First Floor Austin, TX 78774-0100	City of Chicago c/o Harris & Harris 111 West Jackson Blvd. Chicago, IL 60604

Parties to receive notice via Email or Facsimile as indicated (20 largest creditors):

Fry Communications, Inc.
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Advanced Distribution Systems, Inc.
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World Wide Packaging, LLC
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Macy's
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Cincinnati, OH 45202
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CDS GLOBAL, INC.
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ABA Packaging Corporation
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Dix Hills, NY 11746
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Franklin Capital Holdings, LLC
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Highland Park, IL 60035
Facsimile: (847) 579-4942

Internal Revenue Service
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Philadelphia, PA 19101-7346
Email: Mayer.y.silber@irsounsel.treas.gov

Illinois Department of Revenue
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Facsimile: (217)785-2635

Other Parties in Interest

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**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:	)	Chapter 7
	)	Case No. 19-10236
Johnson Publishing Company, LLC,)	
	)	Hon. Jack B. Schmetterer
Debtor.)	
	)	Date: August 8, 2019
	)	Time: 10:30 a.m.

**TRUSTEE’S MOTION FOR ORDER AUTHORIZING PAYMENT OF
CONTINGENCY FEE AND EXPENSE REIMBURSEMENT TO HILCO IP
SERVICES, LLC D/B/A HILCO STREAMBANK**

Miriam R. Stein, not individually, but solely in her capacity as chapter 7 trustee (the “Trustee”) for the bankruptcy estate (the “Estate”) of Johnson Publishing Company, LLC (the “Debtor”), by and through her counsel, Fox Swibel & Levin & Carroll LLP (“FSLC”), pursuant to Sections 328 and 330 of Title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Local Bankruptcy Rules for the Northern District of Illinois (the “Local Bankruptcy Rules”), hereby requests entry of an order authorizing the payment of the contingency fee compensation earned by Hilco IP Services, LLC d/b/a Hilco Streambank (“Hilco Streambank” or “Hilco”) and reimbursement of Hilco’s expenses, in accordance with the Trustee’s previously-approved engagement agreement with Hilco, relating to the successful closing of the sale of the Debtor’s historic 70-year collection of photos and other media of African American history (the “Archive”). In support of this motion (the “Motion”), the Trustee states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core

proceeding pursuant to 28. U.S.C. § 157(b)(2)(A). The statutory predicates for this Motion are Sections 102, 328 and 330 of the Bankruptcy Code and Rules 2002 and 9006 of the Federal Rules of Bankruptcy Procedure.

INTRODUCTION

2. On April 9, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois (the “Court”).

3. On the same day, the United States Trustee for the Northern District of Illinois appointed Miriam R. Stein as the Trustee for the Estate.

4. On May 16, 2019, the Court entered an order [Dkt. 45] (the “Retention Order”) authorizing the Trustee to employ Hilco as her liquidation consultant and auctioneer in connection with the marketing and sale of the Archive, and to compensate Hilco in accordance with the terms of the engagement agreement (the “Engagement Agreement”) between the Trustee and Hilco referenced in and attached to her application to retain Hilco [Dkt. 41] (the “Retention Application”). An extra copy of the Engagement Agreement is appended hereto as **Exhibit A**.

5. Paragraph 3 of the Engagement Agreement requires the Trustee to pay to Hilco 15% of the proceeds realized by the Trustee from the sale of the Archive in excess of the amount paid by the Trustee to satisfy the indebtedness of the Debtor to Capital Holdings V, LLC (“Capital Holdings” and such 15% commission formula for Hilco the “Commission”), which debt was secured by a lien on the Archive as of the Petition Date (the “Secured Debt”). Paragraph 4 of the Engagement Agreement requires the Trustee to reimburse Hilco for expenses

related to its services to the Estate, up to \$20,000 or such higher amount as the Trustee and Hilco may agree.

6. The Engagement Agreement and the Retention Order require Hilco to prepare a summary of fees earned and expenses incurred in connection with Hilco's marketing and sale of the Archive (the "Hilco Final Report"). A copy of the Hilco Final Report is appended hereto as **Exhibit B**.

7. On June 20, 2019, the Court entered an Order authorizing the Trustee to sell the Archive and related assets to the highest or best bidder, pursuant to an auction (the "Auction"). With Hilco's valuable assistance and advice, the Trustee held the Auction over three days -- July 17, 22 and 24, 2019 -- and ultimately accepted a bid of \$30 million for the Archive from a consortium of foundations consisting of The Getty Foundation, The Ford Foundation, The Mellon Foundation and John D. Catherine T. MacArthur Foundation. The Trustee closed the sale of the Archive on July 26, 2019 and received the \$30 million (the "Closing").

8. At the Closing, the Trustee paid the Secured Debt owed to Capital Holdings, which as of the Closing had accrued to \$14,243,744.42, and thus received net proceeds from the sale of the Archive in the amount of \$15,756,255.58 (the "Net Sale Proceeds").

9. As more specifically set forth in the Hilco Final Report, as a result of the Closing and the payment of the Secured Debt, Hilco is entitled to receive a Commission in the amount of \$2,363,438.34, calculated as follows: $15\% \times [(\$30,000,000 \text{ gross proceeds of Archive sale}) - (\$14,243,744.42 \text{ paid to Capital Holdings})]$ (the "Commission Payment").

10. Hilco's Final Report also delineates out of pocket expenses totaling \$26,812.88 for travel, meals, lodging and other costs incurred in connection with the Archive sale (the

“Expense Reimbursement”). The Trustee has reviewed and approved these expenses for reimbursement from the Net Sale Proceeds¹.

RELIEF REQUESTED AND BASIS THEREFOR

11. Pursuant to this Motion, the Trustee seeks an order authorizing the Trustee to make the Commission Payment and the Expense Reimbursement to Hilco (collectively, the “Requested Compensation”) in accordance with the Engagement Agreement, the Retention Application and the Retention Order.

12. The express terms of the Engagement Agreement, which were approved by the Retention Order, authorize the Commission Payment and the Expense Reimbursement. In addition, Hilco’s extraordinary services to the Estate were essential to the successful outcome of the Auction; the payment of the Requested Compensation is therefore not only squarely within the terms of the Engagement Agreement, but also well-deserved.

Notice

13. Notice of this Motion has been provided to the Debtor, the US Trustee, the twenty largest creditors of the Estate, the entities or persons asserting liens against the non-Archive assets of the Estate, relevant government authorities and parties who have requested electronic notice herein.

14. The Trustee asserts that no further notice of this Motion is necessary and should therefore be waived under Section 102 of the Bankruptcy Code and Rule 9006 of the Federal Rules of Bankruptcy Procedure, for the following reasons: (i) the Commission Payment was already pre-approved by the Court in the Retention Order and there are no special circumstances

¹ Of the total expenses incurred by Hilco, \$16,120.53 for publication notice expenses related to the ownership claim bar date was already reimbursed (the “Previous Reimbursement”), but the Trustee is seeking authorization herein for that previous reimbursement.

warranting any deviation from the commission payment structure in this case, especially given the extraordinary results achieved at the Auction administered by Hilco; and (ii) Hilco has incurred substantial time and costs on this case since May 2019 in achieving such a great result for the Estate and its creditors, and additional delay in receiving compensation will provide no incremental benefit to creditors who, but for the results of the Auction, would likely not have received any recovery on their claims.

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WHEREFORE, the Trustee requests that the Court enter an order in substantially the form appended hereto:

1. Approving the payment of the Requested Compensation to Hilco (including authorization of the Previous Reimbursement); and,
2. Granting such other relief as the Court may deem necessary and proper.

Dated: August 5, 2019

Respectfully submitted,

Miriam Stein, as Chapter 7 Trustee of the Estate of
Johnson Publishing Company

By:/s/ N. Neville Reid

N. Neville Reid
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**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:	)	Chapter 7
	)	Case No. 19-10236
Johnson Publishing Company, LLC,)	
	)	Hon. Jack B. Schmetterer
Debtor.)	
	)	Date: August 8, 2019
	)	Time: 10:30 a.m.

**ORDER AUTHORIZING PAYMENT OF CONTINGENCY FEE AND EXPENSE
REIMBURSEMENT TO HILCO IP SERVICES, LLC D/B/A HILCO
STREAMBANK**

Upon consideration of the Motion (the “Motion”) of Miriam R. Stein, as trustee herein for the above-referenced debtor (the “Trustee” and such debtor the “Debtor”), for an order authorizing her to pay Hilco IP Services, LLC d/b/a Hilco Streambank (“Hilco”) the contingency fee it earned under its engagement agreement with the Trustee and to reimburse Hilco for its expenses incurred in connection with the successful marketing and sale of the Debtor’s iconic photo archive (the “Archive”); adequate notice having been given of the Motion and adequate cause appearing therefor; it appearing that the relief requested in the Motion is in the best interests of the Debtor’s estate, creditors and other parties in interest; this proceeding constituting a core proceeding pursuant to 28 U.S.C. § 157(b); and this Order constituting a final order pursuant to 29 U.S.C. § 158(a);

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED in its entirety.
2. All objections to the Motion or the relief requested therein that have not been made, withdrawn, waived, or settled, and all reservations of rights included therein, are overruled and disallowed on the merits.

3. The Trustee is hereby authorized to immediately pay to Hilco, from funds of the estate, fees in the amount of \$2,363,438.34. The Trustee's previous reimbursement of \$16,120.53 to Hilco for expenses incurred in publishing notice of the ownership claims bar date [Dkt. 67] is hereby approved and ratified. The Trustee is further authorized to reimburse Hilco, immediately from funds of the estate, for a separate and additional amount of \$10,692.35 in expenses incurred by Hilco in connection with the sale of the Archive. The foregoing payment of fees and reimbursement of expenses to Hilco shall be free and clear of any and all claims, liens or encumbrances related to the Debtor's creditors or bankruptcy estate.

4. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order.

5. This Order shall be effective immediately upon its entry.

Date

Hon. Jack B. Schmetterer

Order prepared by:

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Brian J. Wilson (ARDC #6294099)
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